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*Attorneys for Plaintiffs*

MONTANA TWELFTH JUDICIAL DISTRICT COURT  
HILL COUNTY

GOODIAN & SON, INC. A MONTANA  
CORPORATION, AND JAG FARMS, INC.,  
A MONTANA CORPORATION, ,

*Plaintiffs,*

v.

CORTEVA, INC., CORTEVA  
AGRISCIENCE, DOW AGROSCIENCES,  
THE DOW CHEMICAL COMPANY,  
DOWDUPONT, INC., and Doe  
Defendants 1-20;

*Defendants.*

Cause No.: DV-21-020  
Dept. No.: \_\_\_\_\_

**COMPLAINT AND JURY DEMAND**

Plaintiffs Goodian & Son, Inc. and JAG Farms, Inc., (collectively referred to as "Goodian"), by and through counsel undersigned, files this Complaint against Defendants Coreteva, Inc., Corteva Agriscience, Dow AgroSciences, The Dow Chemical Company, DowDuPont, Inc., and Doe Defendants, and alleges as

follows:

**PARTIES, JURISDICTION AND VENUE**

1. Goodian & Son, Inc., (“G&S”), is a Montana Corporation with its principal place of business in Hill County, Montana.
2. JAG Farms, Inc., (“JAG”), is a Montana Corporation with its principal place of business in Hill County, Montana.
3. Arron Goodian (“Arron”) is the sole owner and operator of JAG Farms, Inc. Arron resides in Hill County, Montana.
4. Edward Goodian (“Ed”) is the sole owner and operator of Goodian & Son, Inc. Edward resides in Hill County, Montana.
5. Corteva, Inc. (“Corteva”) is a foreign corporation registered to do, and doing business in, the state of Montana. Its principle place of business is 974 Centre Road, Wilmington, Delaware.
6. Corteva Agriscience (“CortevaAg”) was, at times relevant to this Complaint, a subsidiary or division of DowDuPont and is listed on the Montana Secretary of State website as an assumed business name that has been cancelled. According to Corteva’s website, Corteva Agriscience spun from DowDuPont, Inc. on June 1, 2019 becoming a standalone company. Corteva Agrosience LLC is registered to do, and doing business in the State of Montana. Its principle place of business is 9330 Zionsville Road, Indianapolis, IN 46268-1053.
7. DowDuPont, Inc. is the parent company of E.I. Du Pont De Nemours

and Company, and, upon information and belief, its purpose at times relevant to this Complaint was to be a Holding Company for its subsidiaries, including DuPont, and CortevaAg. Its name registration with the Montana Secretary of State's office expired in 2017. Its principle place of business is 1209 Orange Street, Wilmington, Delaware.

8. Upon information and belief, Dow AgroSciences, LLC was a wholly owned subsidiary of the Dow Chemical Company. It is not registered with the State of Montana, but is believed to be a foreign limited liability company with its principle place of business located at 9330 Zionsville Road, Indianapolis, IN.

9. The label for the OpenSky herbicide product at issue in this case ("Specimen Label") lists "Dow", "Dow AgroSciences", and "The Dow Chemical Company" on it. *See OpenSky label Exhibit A.*

10. Doe Defendants are companies or persons who are currently unknown but who may have had some part in the development, design, marketing, manufacture or other events described in this Complaint.

11. The OpenSky herbicide was developed, designed, and manufactured prior to 2018.

12. Upon information and belief, the Dow Chemical Company merged into DowDuPont in April of 2019, the company's parent, Dow Inc. was then separated into a public company via a corporate spin-off. The Dow AgroSciences business unit remained with DowDuPont and was spun off into Corteva Inc.

around June 3, 2019. The Dow AgroSciences unit was divested to be part of a new company called Corteva.

13. Jurisdiction and venue are proper in Hill County pursuant to Mont. Code Ann. § 25-2-122 and Mont. R. Civ. P. 4.

### **FACTS COMMON TO ALL CLAIMS**

14. G&S owns agricultural land primarily used for farming winter wheat, spring wheat, peas, canola, and lentils.

15. JAG owns agricultural land primarily used for farming winter wheat, spring wheat, peas, canola, and lentils.

16. G&S and JAG are owned and operated by a father and son team, Edward Goodian and Arron Goodian.

17. Edward has been farming for forty years. Arron has been farming his entire life. Arron and Edward have ongoing discussions and collaborate on all aspects of their farming operations.

18. In approximately 2015, G&S and JAG made the decision to transition from farm cropping 50 percent and resting 50 percent to cropping 100 percent of their acres every year in a multiple crop rotation.

19. G&S and JAG followed their wheat crops with a pulse crop or an oilseed crop. In this case, the crops following the wheat crops were lentils and canola.

20. In 2018, JAG held a one-year lease on approximately 3040 acres of



agricultural land in Hill County, MT.

21. In or about the Winter of 2017, Arron Goodian researched the idea of spraying a chemical herbicide called OpenSky on the wheat crops. Prior to using the OpenSky product, Arron discussed the use of this chemical with an agronomist named Brad Birch.

22. OpenSky is very expensive compared to alternatives, but it was reported to have good results when used on wheat.

23. OpenSky's label (Specimen Label) provides for a nine (9) month rotation interval for lentils and canola in Montana as follows:

**Crop Rotation Intervals**

The following rotational crops may be planted at the indicated interval following application of OpenSky.

Crop Rotation Intervals for All States Except Idaho, Oregon, and Washington

Superscripted numbers refer to Crop Specific Rotation Information.

Crop	Rotation Interval (Months) <sup>1</sup>
wheat, triticale	1
barley, field corn, grasses, millet, oats, popcorn, seed corn, sweet corn, grain sorghum	9
alfalfa, camelina, canola, chickpea, cotton, soybean, dry bean, pea (dry and succulent), flax, lentil, mustard, potato, safflower, sugar beet, sunflower	9
other crops not listed	12

**Crop Specific Rotation Information**

<sup>1</sup> Minimum number of months that must elapse before planting other crops after application of OpenSky

*See Specimen Label, Exhibit A.*

24. In some states other than Montana, the label specifies a necessary soil Ph and/or rainfall prior to planting crops after application as follows:

Crop Rotation Intervals for Idaho, Oregon, and Washington  
Superscripted numbers refer to Crop Specific Rotation Information.

Crop	Rotation Interval (Months) <sup>1</sup>	
	Soil pH >6 and Rainfall >16 Inches	Soil pH <6 or Rainfall <16 Inches
wheat, triticale	1	1
alfalfa <sup>2</sup>	4	10
barley, field corn, grasses, millet, oats, popcorn, seed corn, sweet corn, grain sorghum	10	10
camelina, canola, cotton, dry bean, flax, mustard, pea (dry and succulent), peanut, safflower, soybean, sugar beet, sunflower	10	10
chickpea <sup>3</sup> , lentil <sup>3</sup> , and potato <sup>3</sup>	10	18
other crops not listed <sup>4</sup>	12	18

*Id.*

25. The Specimen Label for OpenSky in 2018 did not place any requirements in Montana for necessary crop rainfall or soil PH.

26. In or about Spring 2018, Plaintiffs purchased approximately 600 gallons of OpenSky at a total cost of approximately \$80,000.

27. Beginning in approximately June 2018, Plaintiffs sprayed approximately 5000 acres of spring wheat with OpenSky over the course of about ten days.

28. Plaintiffs followed the application instructions on the OpenSky Specimen Label.

29. On or about Fall 2018, Plaintiffs harvested the spring wheat. The wheat yield was good.

30. In or about April – May 2019, approximately 10 months after the first spraying of OpenSky, Plaintiffs seeded lentils and canola on portions of the ground previously sprayed with OpenSky.

31. Emergence of the lentils initially appeared normal with no signs of damage.

32. As the lentil plants began to grow and were about 3-4 inches tall, some areas of the fields turned yellowish in color and appeared to be dying.

33. Some of the lentil fields also were not growing.

34. The areas where lentils were either yellow and appeared to be dying or were not growing continued to get larger and larger as time progressed.

35. Some of the spots where the crops were not growing as the crops would normally be expected to grow were five and ten acres in size.

36. Arron contacted Brad Birch and Joe Carlton who both verified the plants were, in fact, dying.

37. Joe Carlton tested the roots of the plants to see if they were fixing nitrogen by squeezing the nodules on the plant root. The nodules were red, which indicates the plant was fixing nitrogen as it should. They did not know what was causing the problem at that time.

38. In or about April 2019, Arron called Brad Birch and Brad sent Joe Carlton out to the Plaintiffs' farms. They sampled the soil in numerous locations in the lentil fields and marked them with Joe's GPS. Joe then sent the soil samples to MSU Bozeman for analysis with a request to test for the following four chemicals: Pyroxsulam (its common name is PowerFlex), Maverick, Valor, and Olympus.

39. In or about May 2019, Plaintiffs placed another order for more

OpenSky, spending about \$26,000.

40. In 2019, Plaintiffs sprayed the OpenSky on 1350 acres of winter wheat.

41. In or about May of 2019, the Canola crop began to emerge. The crop initially looked good.

42. The weather was good and a bit rainy during May and June of 2019 and the crop continued to look good.

43. In approximately July of 2019, when the rain stopped, Arron noticed the some areas of the Canola started to look different and the color was off. He pulled some plants and noticed the taproot was not growing as it should.

44. The tests from MSU Bozeman came back. The prior lentil field soil sample results from MSU Bozeman indicated the presence of Pyroxsulam. No other chemical was found in significant amounts.

45. Plaintiffs sent soil samples from the lentil crop in to a lab in Bozeman Montana at the Montana State University, Analytical Laboratory ("Bozeman Lab").

46. The lab results from the lentil field test sites came back positive for Pyroxsulam a/k/a PowerFlex.

47. In or around June, 2019 - Brad Birch and/or Joe Carlton called CortevaAg to let CortevaAg know that there was a problem. Territory Representative, James Baguley, visited the farm to meet with Edward and Arron



and to look at the lentil crop.

48. After an inspection, James Baguley said to both Arron and Edward that the damage to the lentil crop appeared to be what he called “SU Damage.”

49. “SU” is an abbreviation or common term for a sulfate chemical (Sulfonylurea Herbicides).

50. OpenSky is a mixture of several chemical herbicides, including Pyroxsulam, which is also considered an “SU”.

51. “SU” chemicals are residual chemicals generally used to control grasses in wheat that can cause damage to other crops.

52. James Baguley asked what Arron and Ed “would be happy with” and, after a lengthy discussion about what to do, James offered Plaintiffs a refund for the OpenSky chemical in the amount of \$108,000 - \$112,000. At the time, Arron and Edward told James Baguley that they would consider the offer, and James left to report back to CortevaAg. James Baguley said he would get back to Plaintiffs about a solution.

53. Edward and Arron received the results from the recent testing by the MSU Bozeman Lab, which showed of the four chemicals tested, only one was present, and that was Pyroxsulam/PowerFlex.

54. By August of 2019, Plaintiffs had not heard back from James Baguley.

55. Plaintiffs began harvesting their lentil, wheat, and canola crops. As he

cut the canola crop, Plaintiffs initially thought the crop may have a good yield. The yield monitor, however, was showing zero for areas.

56. Arron called Brad Birch. When they examined the canola, there were different color variations in the canola (dark and then light with some dark spots).

57. Joe Carlton then called Corteva Ag to report the Plaintiffs still had a problem.

58. In or around September, 2019 there was a second meeting at the Plaintiffs' farms. James Baguley, Territory Rep for Corteva Ag, Joe Yoennish, and in-house scientist for Corteva Ag, Joe Carlton, a representative of Dryfork Ag and an Agronomist, and Arron and Edward were all present for the second meeting. They all meet in a corner of the canola field to examine the crop and take soil samples. Joe Yoennish and Joe Carlton took their own samples in at least some of the same locations as Corteva Ag's agents took samples.

59. At the September 2019 meeting at the farm, the group pulled some of the plants to examine them. The plants had J hook roots, which did not look like a normal healthy plant's roots.

60. On or around September 20, 2019 – results from the MSU Bozeman Lab came back from the samples Dryfork Ag took previously. The MSU Bozeman Lab samples showed LETHAL amounts of PowerFlex.

61. Arron and James Baguley met in the fall of 2019. Mr. Baguley indicated that he was "superceeding" the chemical label on OpenSky. Mr. Baguley

indicated that Plaintiffs needed to consult with Mr. Baguley on what crops they could seed in 2020.

62. Eventually, after enough time passed and enough moisture went through the ground, the OpenSky chemicals were no longer found in the soil. The crops after that time returned to healthy normal crops as the Plaintiffs would normally expect.

63. Plaintiffs lost crops as a result of using OpenSky.

64. As a result of not having the income from the damaged crops, Plaintiffs lost other business opportunities such as leasing additional land.

65. Plaintiffs have suffered damages as a direct and proximate result of Defendants' negligent and wrongful conduct in connection with the research, design, development, manufacture, testing, promotion, marketing, advertising, distribution, labeling and/or sale of OpenSky herbicide.

#### **COUNT I: NEGLIGENCE**

66. Plaintiffs incorporate by reference the preceding paragraphs.

67. Defendants owed Plaintiffs a duty of care in researching, designing, developing, manufacturing, testing, promoting, marketing, advertising, distributing, labeling, and/or selling OpenSky.

68. Defendants breached one or more of the legal duties owed to Plaintiffs by failing to exercise the care that a reasonably prudent person would exercise in like circumstances including, but not limited to, failing to adequately research/test

the Crop Rotation Intervals set forth in the Specimen Label, failing to design OpenSky in a manner that would not cause injury to Plaintiffs, failing to provide the same pH and Rainfall considerations for Montana that were provided for Idaho, Oregon and Washington, and/or failing to give reasonable and adequate warning of the dangers inherent or reasonably foreseeable in the use of OpenSky. Alternatively, Defendants were negligent in the manufacture of a batch of the Open Sky herbicide.

69. The harm to Plaintiffs related to OpenSky was foreseeable by Defendants and greatly outweighed any benefit derived from OpenSky.

70. Defendants knew, or should have known, that their conduct would naturally and probably result in damage to others including Plaintiffs but continued such conduct in reckless disregard for the consequences.

71. Defendants' negligence constitutes a direct and proximate cause of the damages suffered by Plaintiffs.

## **COUNT II: NEGLIGENT DESIGN**

72. Plaintiffs incorporate by reference the preceding paragraphs.

73. Defendants designed OpenSky in the ordinary course of business.

74. Defendants had a duty to use ordinary care in designing and selecting materials for OpenSky in order to protect users from unreasonable risk of harm.

75. The dangers of OpenSky were foreseeable by Defendants.



76. The application of OpenSky by agricultural producers on fields used to grow wheat, lentils, and canola was an intended and reasonably anticipated use.

77. Defendants failed to use ordinary care in the design of OpenSky because that product could not be safely used with the crop rotation specified on the Specimen Label.

78. The design of OpenSky is defective and unreasonably dangerous.

79. The negligent design of OpenSky directly and proximately damaged Plaintiffs in an amount to be determined at trial.

### **COUNT III: NEGLIGENT FAILURE TO WARN**

80. Plaintiffs incorporate by reference the preceding paragraphs.

81. Defendants had a duty to give an adequate warning of the dangers inherent or reasonably foreseeable when OpenSky is used in the manner intended or as reasonably anticipated.

82. The risk of harm presented by using OpenSky in Montana was foreseeable by Defendants.

83. Defendants failed to provide an adequate warning of the dangers associated with the use of OpenSky in Montana and, in fact, misrepresented and concealed the dangers.

84. Plaintiffs did not have knowledge of the defective and unreasonably dangerous nature of OpenSky at the time of purchase and use.

85. Plaintiffs were damaged as a direct and proximate result of OpenSky

being sold without an adequate warning.

**COUNT IV: STRICT LIABILITY (DESIGN DEFECT)**

86. Plaintiffs incorporate by reference the preceding paragraphs.

87. Defendants were engaged in the business of researching, designing, developing, manufacturing, testing, promoting, marketing, advertising, distributing, labeling, and/or selling OpenSky.

88. Defendants supplied OpenSky in a defective condition because OpenSky was unsafe for reasonably foreseeable use.

89. The dangers of OpenSky extended beyond that contemplated by the ordinary and reasonable purchaser or user.

90. The design of OpenSky caused damage to lentil and canola crops when used as intended and reasonably anticipated.

91. The ordinary and reasonable purchaser or user of OpenSky would not have expected a product designed for application on fields used to grow wheat, lentils and canola to cause damage to lentils and canola.

92. The design of OpenSky directly and proximately damaged Plaintiffs.

**COUNT V: STRICT LIABILITY (FAILURE TO WARN)**

93. Plaintiffs incorporate by reference the preceding paragraphs.

94. A product is defective if it lacks an adequate warning or instructions for safe use rendering the product unreasonably dangerous beyond the contemplation of the ordinary purchaser or user.

95. Defendants knew, or should have known, of the dangers associated with using OpenSky in Montana and failed to provide an adequate warning or instructions for safe use by label or otherwise.

96. Purchasers of OpenSky were unaware of the dangers that were foreseeable by Defendants.

97. OpenSky's labels and marketing materials were false, misleading, and failed to contain warnings or instructions to prevent harm to crops in Montana.

98. OpenSky was defective and unreasonably dangerous at the time of sale when put to its intended and reasonably anticipated use of application.

99. Plaintiffs were damaged as a direct and proximate result of OpenSky being sold without an adequate warning or instructions for safe use.

#### **COUNT VI: BREACH OF EXPRESS WARRANTY**

100. Plaintiffs incorporate by reference the preceding paragraphs.

101. At all times relevant to this Complaint, Defendants were a "merchant" under Montana's Uniform Commercial Code.

102. OpenSky is a "good" within the meaning of Montana's Uniform Commercial Code.

103. Defendants made numerous affirmations of fact, descriptions, and/or promises and guarantees to purchasers of OpenSky that became a basis of the bargain.

104. The representations created an express warranty that OpenSky would

conform therewith.

105. Defendants' representations were made for the purpose of inducing reliance on the part of Plaintiffs and Plaintiffs did rely on the representations when purchasing OpenSky.

106. OpenSky failed to conform to the express warranties created by Defendants.

107. Plaintiffs are persons Defendants would have reasonably expected to rely on the express warranties.

108. As a direct and proximate cause of the failure of OpenSky to conform to the express warranties, Plaintiffs were damaged.

#### **COUNT VII: BREACH OF IMPLIED WARRANTY**

109. Plaintiffs incorporate by reference the preceding paragraphs.

110. A warranty that OpenSky is in merchantable condition and fit for the ordinary purpose for which herbicides are used is implied by law.

111. OpenSky, when sold to Plaintiffs and all times thereafter, was not in a merchantable condition and is not fit for the ordinary purpose for use as a herbicide as described in the Specimen Label.

112. Defendants have been provided multiple notices of the problem and have breached their warranties. Additional opportunities to cure would be unnecessary and would be futile here as Plaintiffs have already suffered financial harm.



113. As a direct and proximate result of Defendants' breach of the implied warranty of merchantability and fitness, Plaintiffs were damaged.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs prays for judgment against the Defendants, jointly and severally or individually as the law may allow, as follows:


- A. That the Court award compensatory, consequential, and general damages in an amount to be proved at trial;
- B. That the Court award pre and post judgment interest as allowed by law;
- C. That the Court award reimbursement of Plaintiffs' costs of action; and
- D. For such additional relief as this Court deems warranted under the circumstances.

**DEMAND FOR JURY TRIAL**

Plaintiffs demand a trial by jury on all issues presented in this Complaint that are so triable.

Dated this 2 day of February, 2021.

WORDEN THANE P.C.  
*Attorneys for Plaintiffs*

  
\_\_\_\_\_  
Reid Perkins

# Specimen Label



Dow AgroSciences



**HERBICIDE**

®™Trademark of The Dow Chemical Company ("Dow") or an affiliated company of Dow

For postemergent control of annual grass and broadleaf weeds in spring wheat (including durum), winter wheat, and triticale.

Group	2	4	HERBICIDE
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#### Active Ingredient:

fluroxypyr 1-methylheptyl ester: ((4-amino-3,5-dichloro-6-fluoro-2-pyridinyl)oxy)acetic acid, 1-methylheptyl ester	16.31%
pyroxsulam: N-(5,7-dimethoxy[1,2,4]triazolo [1,5-a]pyrimidin-2-yl)-2-methoxy-4-(trifluoromethyl)-3-pyridinesulfonamide	1.28%

Other Ingredients	82.41%
Total	100.0%

Contains petroleum distillates

#### Acid Equivalents:

fluroxypyr: ((4-amino-3,5-dichloro-6-fluoro-2-pyridinyl)oxy)acetic acid - 11.3% (0.95 lb/gal)

Contains 0.95 lb fluroxypyr acid equivalent per gallon, and 0.107 lb pyroxsulam per gallon.

### Precautionary Statements

#### Hazards to Humans and Domestic Animals

EPA Reg. No. 62719-721

## CAUTION

Contains Petroleum Distillates. • Causes moderate eye irritation. • Avoid contact with eyes or clothing • Wear protective eyewear. Prolonged or frequently repeated skin contact may cause allergic reactions in some individuals.

#### Personal Protective Equipment (PPE)

Applicators and other handlers must wear:

- Protective eyewear
- Long-sleeved shirt and long pants
- Shoes plus socks
- Chemical-resistant gloves made of Barrier Laminate, Butyl rubber ≥ 14 mils, Nitrile Rubber ≥ 14 mils, Neoprene Rubber ≥ 14 mils, Polyvinyl Chloride (PVC) ≥ 14 mils, or Viton ≥ 14 mils.

Follow manufacturer's instructions for cleaning/maintaining PPE. If no such instructions for washables, use detergent and hot water. Keep and wash PPE separately from other laundry.

#### Engineering Controls

When handlers use closed systems, enclosed cabs, or aircraft in a manner that meets the requirements listed in the Worker Protection Standard (WPS) for agricultural pesticides [40 CFR 170.240(d)(4-6)], the handler PPE requirements may be reduced or modified as specified in the WPS.

### User Safety Recommendations

Users should:

- Wash hands thoroughly after handling and before eating, drinking, chewing gum, using tobacco, or using the toilet.
- Remove clothing immediately if pesticide gets inside. Then wash thoroughly and put on clean clothing.
- Users should remove PPE immediately after handling this product. Wash the outside of the gloves before removing. As soon as possible, wash thoroughly and change into clean clothing.

### FIRST AID

If in eyes	Hold eye open and rinse slowly and gently with water for 15-20 minutes. Remove contact lenses, if present, after the first 5 minutes, then continue rinsing eye. Call a poison control center or doctor for treatment advice.
If on skin	Take off contaminated clothing. Rinse skin immediately with plenty of water for 15-20 minutes. Call a poison control center or doctor for treatment advice.
If swallowed	Call a poison control center or doctor immediately for treatment advice. Have person sip a glass of water if able to swallow. Do not induce vomiting unless told to by a poison control center or doctor. Do not give anything by mouth to an unconscious person.

### HOT LINE NUMBER

**Note to physician:** May pose an aspiration pneumonia hazard. May contain petroleum distillates. Vomiting may cause aspiration pneumonia. Have the product container or label with you when calling a poison control center or doctor, or going for treatment. You may also contact 1-800-992-5994 for emergency medical treatment information.

### Environmental Hazards

This product is toxic to fish. Do not apply directly to water, to areas where surface water is present or to intertidal areas below the mean high water mark. Do not contaminate water when cleaning equipment or disposing of equipment washwaters. Toxic to aquatic organisms and non-target terrestrial plants. This product may contaminate surface water due to runoff of rainwater. This is especially true for poorly draining soils and soils with shallow ground water. This product is classified as having high potential for runoff for several days after application. A level, well-maintained vegetative buffer strip between areas to which this product is applied and surface water features such as ponds, streams, and springs will reduce the potential for contamination of water from runoff of rainwater. Runoff of this product will be reduced by avoiding applications when rainfall is forecasted to occur within 48 hours.

### Directions for Use

It is a violation of Federal law to use this product in a manner inconsistent with its labeling.

Read all Directions for Use carefully before applying.

Do not apply this product in a way that will contact workers or other persons, either directly or through drift. Only protected handlers may be in the area during application. For any requirements specific to your state or tribe, consult the agency responsible for pesticide regulation.

### Agricultural Use Requirements

Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR Part 170. This standard contains requirements for the protection of agricultural workers on farms, forests, nurseries, and greenhouses, and handlers of agricultural pesticides. It contains requirements for training, decontamination, notification, and emergency assistance. It also contains specific instructions and exceptions pertaining to the statements on the label about personal protective equipment, restricted-entry interval, and notification to workers (as applicable). The requirements in this box apply to uses of this product that are covered by the Worker Protection Standard.

Do not enter or allow worker entry into treated areas during the restricted entry interval (REI) of 24 hours.

For early entry into treated areas that is permitted under the Worker Protection Standard and that involves contact with anything that has been treated, such as plants, soil, or water, wear:

- Coveralls
- Chemical resistant gloves made of any waterproof material
- Shoes plus socks
- Protective eyewear

EXHIBIT

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## Storage and Disposal

Do not contaminate water, food, or feed by storage or disposal.

**Pesticide Storage:** Store in original container only.

**Pesticide Disposal:** Wastes resulting from the use of this product must be disposed of on site according to label use directions or at an approved waste disposal facility.

**Nonrefillable containers 5 gallons or less:**

**Container Handling:** Nonrefillable container. Do not reuse or refill this container. Offer for recycling if available or puncture and dispose of in a sanitary landfill, or by incineration, or by other procedures allowed by state and local authorities.

Triple rinse or pressure rinse container (or equivalent) promptly after emptying. Triple rinse as follows: Empty the remaining contents into application equipment or a mix tank and drain for 10 seconds after the flow begins to drip. Fill the container 1/4 full with water and recap. Shake for 10 seconds. Pour rinsate into application equipment or a mix tank or store rinsate for later use or disposal. Drain for 10 seconds after the flow begins to drip. Repeat this procedure two more times. Pressure rinse as follows: Empty the remaining contents into application equipment or a mix tank and continue to drain for 10 seconds after the flow begins to drip. Hold container upside down over application equipment or mix tank or collect rinsate for later use or disposal. Insert pressure rinsing nozzle in the side of the container, and rinse at about 40 psi for at least 30 seconds. Drain for 10 seconds after the flow begins to drip.

**Nonrefillable containers larger than 5 gallons:**

**Container Handling:** Nonrefillable container. Do not reuse or refill this container. Offer for recycling if available or puncture and dispose of in a sanitary landfill, or by incineration, or by other procedures allowed by state and local authorities.

Triple rinse or pressure rinse container (or equivalent) promptly after emptying. Triple rinse as follows: Empty the remaining contents into application equipment or a mix tank. Fill the container 1/4 full with water. Replace and tighten closures. Tip container on its side and roll it back and forth, ensuring at least one complete revolution, for 30 seconds. Stand the container on its end and tip it back and forth several times. Turn the container over onto its other end and tip it back and forth several times. Empty the rinsate into application equipment or a mix tank or store rinsate for later use or disposal. Repeat this procedure two more times. Pressure rinse as follows: Empty the remaining contents into application equipment or a mix tank and continue to drain for 10 seconds after the flow begins to drip. Hold container upside down over application equipment or mix tank or collect rinsate for later use or disposal. Insert pressure rinsing nozzle in the side of the container, and rinse at about 40 psi for at least 30 seconds. Drain for 10 seconds after the flow begins to drip.

**Refillable containers larger than 5 gallons:**

**Container Handling:** Refillable container. Refill this container with pesticide only. Do not reuse this container for any other purpose. Cleaning the container before final disposal is the responsibility of the person disposing of the container. Cleaning before refilling is the responsibility of the refiller. To clean the container before final disposal, empty the remaining contents from this container into application equipment or mix tank. Fill the container about 10% full with water. Agitate vigorously or recirculate water with the pump for two minutes. Pour or pump rinsate into application equipment or rinsate collection system. Repeat this rinsing procedure two more times.

## Product Information

Use OpenSky™ herbicide as a postemergence herbicide for the control of annual grass and annual or perennial broadleaf weeds in spring wheat (including durum), winter wheat, and triticale.

OpenSky rapidly stops growth of susceptible weeds. However, typical symptoms (discoloration) of controlled or suppressed weeds may not be noticeable for 1 to 2 weeks after application, depending upon growing conditions and weed susceptibility. Degree of control and duration of effect are dependent upon weed sensitivity, weed size, crop competition, growing conditions at and following treatment, and spray coverage.

## Use Restrictions

- **Chemigation:** Do not apply this product through any type of irrigation system.
- Do not apply OpenSky directly to, or otherwise permit it to come into direct contact with, susceptible crops or desirable plants including alfalfa, barley, canola, beans, cotton, flowers, grapes, lettuce, lentils, mustard, oats, peas, potatoes, radishes, soybeans, sugar beets, sunflowers, tobacco, tomatoes, vegetables, or other desirable broadleaf crops or ornamental plants. Do not permit spray mists containing OpenSky to drift onto such plants.

- Do not apply to crops underseeded with legumes.
- Do not contaminate irrigation ditches or water used for domestic purposes.
- **Plant-back Restriction:** If replanting is required, plant only those crops listed on this label within 120 days following application.

## Spray Drift Management

Avoiding spray drift at the application site is the responsibility of the applicator. A variety of factors can influence pesticide drift, such as weather conditions (e.g., wind direction, wind speed, temperature, relative humidity), method of application (e.g., ground, aerial), and application equipment (e.g., airblast, chemigation). The interaction of application equipment, weather at the time of application, and characteristics of the pesticide itself determine the potential for spray drift. The applicator and the grower are responsible for considering all these factors when making decisions. Ultimately, the applicator must evaluate all factors at the time of application, and make appropriate adjustments when applying this product to avoid off target movement or delay application until the pesticide can be applied safely. Moreover, the applicator is responsible for avoiding spray drift for individual pesticide applications.

### Other State and Local Requirements

Applicators must follow all state and local pesticide drift requirements regarding application herbicides. Where states have more stringent regulations, those regulations must be followed.

### Controlling Droplet Size

**Pressure:** Use the lower spray pressures specified for the nozzle. Higher pressure reduces droplet size and does not improve canopy penetration. When higher flow rates are needed, use higher flow rate nozzles instead of increasing pressure.

**Number of Nozzles:** Use the minimum number of nozzles that provide uniform coverage.

**Nozzle Type:** Use a nozzle type that is designed for the intended application. With most nozzle types, narrower spray angles produce larger droplets. Consider using low-drift nozzles.

**Wind:** Drift potential is lowest between wind speeds of 2-10 mph. However, many factors, including droplet size and equipment type determine drift potential at any given speed. Application should be avoided below 2 mph due to variable wind direction and high inversion potential. **Note:** Local terrain can influence wind patterns. Every applicator should be familiar with local wind patterns and how they affect drift.

**Temperature and Humidity:** When making applications in low relative humidity, set up equipment to produce larger droplets to compensate for evaporation. Droplet evaporation is most severe when conditions are both hot and dry.

**Temperature Inversions:** Do not apply under conditions of a low level air temperature inversion. Temperature inversions restrict vertical air mixing, which causes small-suspended droplets to remain in a concentrated cloud. This cloud can move in unpredictable directions due to the light variable winds common during inversions. A temperature inversion is characterized by increasing temperature with altitude and commonly develops at night when there is limited cloud cover and calm conditions. They begin to form as the sun sets and often continue into the morning. Presence of a temperature inversion is indicated by ground fog; however, if ground fog is not present, a temperature inversion can also be indicated by movement of smoke from a ground or an aircraft smoke generator. Smoke that forms a layer and moves laterally in a connected cloud (under low wind conditions) is an indication of inversion conditions, while smoke that moves upward and dissipates rapidly is an indication of good vertical air mixing.

**Sensitive Areas:** The pesticide should only be applied when the potential for drift to adjacent sensitive areas (e.g., residential areas, bodies of water, known habitat for threatened or endangered species, non-target crops) is minimal (e.g., when wind is blowing away from the sensitive areas).

### Equipment

All aerial and ground application equipment must be properly maintained and calibrated using appropriate carriers or surrogates. Refer to the spray equipment manufacturer's directions for detailed information on nozzle types, arrangement, spacing, and operating height and pressure. Operate equipment at spray pressures no greater than is necessary to produce a uniform spray pattern. Operate the spray boom no higher than is necessary to produce a uniformly overlapping pattern between spray nozzles.

### Ground Applications:

**Volume:** Apply this product in a total spray volume of 10 or more gallons per acre using spray equipment designed to produce large-droplet, low pressure sprays. Spot treatments should be applied only with a calibrated boom to prevent over application.

### Restriction:

- Do not apply with hollow cone-type insecticide nozzles or other nozzles that produce a fine-droplet spray.



**Additional requirements for Aerial Applications:**

**Volume:** Apply this product in a total spray volume of 5 gallons or more per acre.

**Boom Length:** For some use patterns, reducing the effective boom length to less than 75% of the wingspan or 90% of rotor width may further reduce drift without reducing swath width.

**Nozzle Orientation:** Orienting nozzles so that the spray is released backwards, parallel to the airstream will produce larger droplets than other orientations. Significant deflection from the horizontal will reduce droplet size and increase drift potential.

**Application:** Applications should not be made at a height greater than 10 feet above the top of the largest plants unless a greater height is required for aircraft safety. Making applications at the lowest height that is safe reduces exposure of droplets to evaporation and wind.

**Swath Adjustment:** When applications are made with a crosswind, the swath will be displaced downwind. Therefore, on the up and downwind edges of the field, the applicator must compensate for this displacement by adjusting the path of the aircraft upwind. Swath adjustment distance should increase, with increasing drift potential (higher wind, smaller drops, etc.).

**Crop Rotation Intervals**

The following rotational crops may be planted at the indicated interval following application of OpenSky.

**Crop Rotation Intervals for All States Except Idaho, Oregon, and Washington**

Superscripted numbers refer to Crop Specific Rotation Information.

Crop	Rotation Interval (Months) <sup>1</sup>
wheat, triticale	1
barley, field corn, grasses, millet, oats, popcorn, seed corn, sweet corn, grain sorghum	9
alfalfa, camelina, canola, chickpea, cotton, soybean, dry bean, pea (dry and succulent), flax, lentil, mustard, potato, safflower, sugar beet, sunflower	9
other crops not listed	12

**Crop Specific Rotation Information**

<sup>1</sup> Minimum number of months that must elapse before planting other crops after application of OpenSky

**Crop Rotation Intervals for Idaho, Oregon, and Washington**

Superscripted numbers refer to Crop Specific Rotation Information.

Crop	Rotation Interval (Months) <sup>1</sup>	
	Soil pH >6 and Rainfall >16 Inches	Soil pH <6 or Rainfall <16 Inches
wheat, triticale	1	1
alfalfa <sup>2</sup>	4	10
barley, field corn, grasses, millet, oats, popcorn, seed corn, sweet corn, grain sorghum	10	10
camelina, canola, cotton, dry bean, flax, mustard, pea (dry and succulent), peanut, safflower, soybean, sugar beet, sunflower	10	10
chickpea <sup>3</sup> , lentil <sup>3</sup> , and potato <sup>3</sup>	10	18
other crops not listed	12	18

**Crop Specific Rotation Information:**

<sup>1</sup> Minimum number of months that must elapse before planting other crops after application of OpenSky

<sup>2</sup> Alfalfa for forage may be planted 4 months after application if the soil pH is uniformly 6 or greater AND total rainfall (including irrigation) during the interval is greater than 10 inches. If the soil pH is less than 6 OR total rainfall (including irrigation) is less than 10 inches, then the rotation interval is 10 months.

<sup>3</sup> Chickpea, lentil, and potato may be planted 10 months after application if the soil pH is uniformly 6 or greater AND total rainfall (including irrigation) during the interval is greater than 16 inches. If the soil pH is less than 6 OR total rainfall (including irrigation) is less than 16 inches, then the rotation interval is 18 months.

**Note:** OpenSky is degraded primarily by microbial activity and break down more rapidly under favorable soil moisture and temperature conditions. Correspondingly, the rate of degradation may be slower under extreme conditions of drought or cold temperatures. When soil moisture conditions are abnormally dry during the interval between an application of OpenSky and planting the next crop, conduct a field bio-assay by planting test strips of the desired rotational crop. Monitor the test strips during germination and emergence for any abnormal growth to determine if the rotational crop can be grown successfully.

**Mixing Directions****OpenSky – Alone**

1. Fill clean spray tank with 1/2 of the total amount of water and begin agitation. (If using a liquid nitrogen fertilizer solution in place of water, see Directions for Use section for additional details.)
2. Add a water conditioning agent if needed.
3. Add the required amount of OpenSky.
4. Add the required amount of adjuvant (refer to Surfactants and Adjuvants section).
5. Continue agitation while filling the spray tank to the required volume.
6. To ensure a uniform spray mixture, continuous agitation is required during application. If product is allowed to settle, thoroughly agitate to resuspend the mixture before spraying. Apply mixture immediately after it is prepared.

**OpenSky – Tank Mix**

If a broader spectrum of weed control is needed, OpenSky may be tank mixed with labeled rates of other pesticides provided: (1) the tank mix product is labeled for the timing and method of application for the use site to be treated; and (2) tank mixing is not prohibited by the label of the tank mix product.

Add a spray-quality ammonium sulfate fertilizer (21-0-0-24 at 1.5 to 3.0 pounds per acre) or appropriate water conditioning agent to improve compatibility with EC formulation products. When tank mixing with Headline® SC Fungicide, Priaxor® Xemium® Brand Fungicide, or Quilt® Fungicide, add ammonium sulfate or water conditioning agent plus a non-ionic surfactant at 0.5% v/v.

It is the pesticide user's responsibility to ensure that all products in the listed mixtures are registered for the intended use. Users must follow the most restrictive directions for use and precautionary statements of each product in the tank mixture.

**Tank Mixing Restrictions:**

- Do not mix with products containing dicamba or amine formulations of 2,4-D or MCPA as these products may reduce grass control provided by OpenSky.
- Do not tank mix with organophosphate insecticides as these mixtures may result in unacceptable crop injury.
- Do not exceed specified application rates for respective products or maximum allowable application rates for any active ingredient in the tank mix.

**Tank Mix Compatibility Testing:** Always perform a jar test prior to tank mixing to ensure compatibility of OpenSky and other pesticides and spray adjuvants. Use a clear glass quart jar with lid and mix the tank mix ingredients in their relative proportions. Invert the jar containing the mixture several times and observe the mixture for approximately 30 minutes. If the mixture balls-up or forms flakes, sludges, jels, oily films or layers, or other precipitates, it is not compatible and the tank mix combination should not be used. Follow manufacturers' recommendations for Personal Protective Equipment during the testing.

Continuous agitation during mixing, filling, and throughout application is required for all tank mixes. Sparger pipe agitators generally provide effective agitation in spray tanks. To prevent foaming in the spray tank, avoid stirring or splashing air into the spray mixture.

**Mixing Order for Tank Mixes:**

1. Fill clean spray tank to 1/2 to 3/4 of the total spray volume required with water and begin agitation. (If using a liquid nitrogen fertilizer solution in place of water, see Directions for Use section for additional details.)
2. Add a water conditioning agent if needed.
3. Add different formulation types in the following order while maintaining agitation: (1) dry flowables; (2) wettable powders; (3) OpenSky; (4) aqueous suspensions, flowables, and liquids; (5) emulsifiable concentrates; (6) solutions; and (7) adjuvants. Allow time for complete mixing and dispersion after each addition.
4. Finish filling the spray tank. Maintain continuous agitation during mixing and throughout application. If product is allowed to settle, thoroughly agitate to resuspend the mixture before spraying. Apply mixture immediately after it is prepared.

If application or agitation must be stopped before the spray tank is empty, the materials may settle to the bottom. Settled materials must be resuspended before spraying is resumed. A sparger agitator is



particularly useful for this purpose. Settled material may be more difficult to resuspend than when originally mixed.

#### Clean-Out Procedures for Spray Equipment

1. Completely drain the spray system, including pump, lines, and spray boom.
2. Fill the spray tank with clean water to at least 10% of the total tank volume and circulate the solution through the entire system so that all internal surfaces are contacted for at least 15 minutes to complete the first rinse of the application equipment. Spray the solution out of the spray tank through the boom.
3. Completely drain the spray system, including lines and spray boom; remove and clean filters and strainers.
4. During the second rinse, fill the container half full with clean water and then add a commercial tank cleaner at the manufacturer's recommended rates. Circulate the cleaning solution through the entire system for at least 20 minutes. Let the solution stand for several hours. Again circulate and flush the solution through the lines and boom.
5. Completely drain and flush the spray system, including lines and spray boom.
6. Fill the container with clean water to at least 10% of the total tank volume and circulate the solution through the entire system so that all internal surfaces are contacted for at least 15 minutes to complete the third rinse of the application equipment. Spray the solution out of the spray tank through the boom.

**Note:** Rinsate may be disposed of on site according to label use directions or at an approved waste disposal facility.

#### Weeds Controlled (C) or Suppressed (S)

Best results are obtained when grass weeds are treated at the 2-leaf to 2-tiller stage of growth and before broadleaf weeds are larger than 2 inches tall or 2 inches in diameter. Best control is achieved when applications are made to actively growing weeds. Control may be reduced when weeds are exposed to drought or extreme temperatures. Except where noted for weeds controlled by fluroxypyr, OpenSky will not control known ALS (Group 2) resistant biotypes of labeled weeds.

Common Name	Scientific Name	Spring Application
<b>Grass Weeds</b>		
barley, foxtail	<i>Hordeum jubatum</i>	S
barnyardgrass	<i>Echinochloa crus-galli</i>	C
blackgrass	<i>Alopecurus myosuroides</i>	C
bluegrass, bulbous	<i>Poa bulbosa</i>	C
brome, downy	<i>Bromus tectorum</i>	S
brome, Japanese	<i>Bromus japonicus</i>	C
brome, riggut	<i>Bromus diandrus</i>	C
canarygrass, hood	<i>Phalaris paradoxa</i>	S
canarygrass, littleseed	<i>Phalaris minor</i>	S
cheat	<i>Bromus secalinus</i>	C
chess, hairy	<i>Bromus commutatus</i>	C
corn, volunteer	<i>Zea mays</i>	C
darnel, Persian <sup>5</sup>	<i>Lolium persicum</i>	C
fescue, rattail	<i>Vulpia myuros</i>	S
foxtail, green	<i>Setaria viridis</i>	S
foxtail, yellow <sup>5</sup>	<i>Setaria pumila</i>	C
oat, wild	<i>Avena fatua</i>	C
quackgrass	<i>Elymus repens</i>	S
rescuegrass	<i>Bromus catharticus</i>	S
ryegrass, Italian	<i>Lolium perenne</i>	C
windgrass	<i>Apera spica-venti</i>	C
<b>Broadleaf Weeds</b>		
bedstraw, catchweed (cleavers)	<i>Galium aparine</i>	C
buckwheat, wild	<i>Polygonum convolvulus</i>	C
canola, volunteer (wild turnip) <sup>2</sup>	<i>Rapistrum rugosum</i>	C
chamomile, mayweed	<i>Anthemis cotula</i>	S
chickweed, common	<i>Stellaria media</i>	C
chickweed, mouseear	<i>Cerastium fontanum</i>	C
falseflax, smallseed <sup>1</sup>	<i>Camelina microcarpa</i>	C
flixweed <sup>2</sup>	<i>Descurainia sophia</i>	C
gromwell, corn	<i>Buglossoides arvensis</i>	C
hempnettle, common	<i>Galeopsis tetrahit</i>	C
henbit	<i>Lamium amplexicaule</i>	S
kochia <sup>3</sup>	<i>Kochia scoparia</i>	C
lambsquarters, common <sup>4</sup>	<i>Chenopodium album</i>	C
mallow, common	<i>Malva neglecta</i>	C
mustard, black	<i>Brassica nigra</i>	C
mustard, blue <sup>1</sup>	<i>Chorispora tenella</i>	C
mustard, tumble <sup>1</sup>	<i>Sisymbrium altissimum</i>	C
mustard, wild	<i>Sinapis arvensis</i>	C
mustard, wormseed <sup>1</sup>	<i>Erysimum cheiranthoides</i>	C
pennycress, field <sup>1</sup>	<i>Thlaspi arvense</i>	C
pigweed, redroot	<i>Amaranthus retroflexus</i>	C

Common Name	Scientific Name	Spring Application
<b>Broadleaf Weeds (cont.)</b>		
prickly lettuce	<i>Lactuca serriola</i>	C
shepherds-purse <sup>1</sup>	<i>Capsella bursa-pastoris</i>	C
smartweed, annual	<i>Polygonum sp.</i>	C
speedwell, field	<i>Veronica agrestis</i>	C
speedwell, ivyleaf	<i>Veronica hederifolia</i>	C
sunflower, common	<i>Helianthus annuus</i>	C
tansymustard, pinnate <sup>1</sup>	<i>Descurainia pinnata</i>	C
thistle, Russian <sup>4</sup>	<i>Salsola tragus</i>	C
violet, field	<i>Viola arvensis</i>	C
wallflower, bushy <sup>1</sup>	<i>Erysimum repandum</i>	C

<sup>1</sup> Control may be reduced when application is made after bolting.

<sup>2</sup> Including herbicide-tolerant canola varieties except Clearfield (imidazolinone-tolerant) canola

<sup>3</sup> Including ALS herbicide-tolerant biotypes

<sup>4</sup> Less than 2 inches tall. For control of lambsquarters over 2 inches tall, tank mix with 0.25 lb ae per acre of MCPA or 2,4-D. For control of Russian thistle over 2 inches tall, tank mix with 0.25 lb ae per acre of 2,4-D.

<sup>5</sup> One to four-leaf stage of growth.

#### Resistance Management

Pyroxsulam is an ALS mode of action (Group 2) herbicide. Fluroxypyr is growth regulator (Group 4) herbicide. Any weed population may contain or develop plants naturally resistant to this product and other ALS herbicides. ALS resistant biotypes may dominate the weed population if these herbicides are used repeatedly in the same field. Except for weeds controlled by fluroxypyr, OpenSky will not control known ALS (Group 2) resistant biotypes of labeled weeds. Other resistance mechanisms that are not linked to site of action, but specific for individual chemicals, such as enhanced metabolism, may also exist. Appropriate resistance management strategies should be followed.

To delay herbicide resistance:

- For best resistance management stewardship, do not use more than once per season.
- Where possible, rotate the use of OpenSky or other ALS herbicides with different herbicide groups that control the same weeds in a field.
- Use tank mixtures with herbicides from different groups when such use is permitted.
- Herbicide use should be based on an IPM program that includes scouting, historical information related to herbicide use and crop rotation, and considers tillage (or other mechanical), cultural, biological and other chemical control practices.
- Monitor treated weed populations for resistance development.
- Prevent movement of resistant weed seeds to other fields by cleaning harvesting and tillage equipment and planting clean seed.
- Contact your local extension specialist or certified crop advisers for any additional pesticide resistance management and/or integrated weed management requirements for specific crops and weed biotypes.

#### Directions for Use

##### Application Timing

Apply OpenSky postemergence to the main flush of actively growing weeds according to the target weed stage shown in the above Weeds Controlled or Suppressed table. Extreme growing conditions such as drought, temperatures near or below freezing prior to, at, or following time of application may reduce weed control and increase the risk of crop injury at all stages of growth.

Warm, moist growing conditions promote active weed growth and enhance the activity of OpenSky by allowing maximum foliar uptake and contact activity. Weeds hardened off by cold weather or drought stress may not be adequately controlled or suppressed and re-growth may occur. For best results, ensure thorough spray coverage of target weeds.

If foliage is wet at the time of application, control may be decreased. Applications of OpenSky are rainfast within 4 hours after application.

##### Spray Coverage

Use sufficient spray volume to provide thorough coverage and a uniform spray pattern. Do not broadcast apply in less than 5 gallons of total spray volume per acre. For best results and to minimize spray drift, apply in a spray volume of 10 gallons or more per acre. As vegetative canopy and weed density increase, increase spray volume to obtain equivalent weed control. Use only nozzle types and spray equipment designed for herbicide application. To reduce spray drift, follow precautions under Spray Drift Management.

##### Surfactants and Adjuvants

When OpenSky is applied alone, use one of the following surfactants or adjuvants:

- Non-ionic surfactant with at least 80% active ingredient at 0.25% to 0.50% v/v (1 to 2 quarts per 100 gallons of spray solution); for best results under dry or low humidity environments, use a rate of 0.50% v/v. Addition



- of spray quality urea ammonium nitrogen fertilizer (28-0-0 to 32-0-0 at 1 to 2 quarts per acre) or ammonium sulfate fertilizer (21-0-0-24 at 1.5 to 3 lb per acre) may be added with non-ionic surfactant to enhance control.

When applying in tank mixture with EC formulated products at rates up to a total of 6 fluid ounces of EC product per acre, include a non-ionic surfactant at 0.25% to 0.50% v/v. If total EC product rates per acre exceed 6 fluid ounces per acre, include a non-ionic surfactant up to 0.25% v/v.

#### Restrictions:

- Do not use additives that lower the spray solution below a pH of 6.0.
- Do not apply to crops suffering from drought, water-logged soils, nutrient deficiency, or exposure to frost or other agronomic factors affecting plant growth.
- Do not use on wheat or triticale varieties that are sensitive to ALS herbicides.

### Spring Wheat (including Durum)

Apply 1 pint of OpenSky per acre in the spring to actively growing spring wheat (including durum) from the 3-leaf up to before flag leaf emergence stage (Zadoks scale 37) according to the application timings shown in the table entitled Weeds Controlled (C) or Suppressed (S). Treat after the majority of weeds have emerged. Best results are obtained when application is made to weeds that are actively growing.

#### Crop Specific Use Restrictions:

- Do not use if cereal crop is underseeded with a legume.
- Do not apply OpenSky to spring wheat in spray solutions containing UAN at rates greater than 2 quarts per acre, AMS at rates greater than 3 pounds per acre, or equivalent rates of other suitable fertilizers.

### Winter Wheat and Triticale

Apply 1 to 1.25 pints of OpenSky per acre in the spring to actively growing winter wheat or triticale from the 3-leaf up to before flag leaf emergence stage (Zadoks scale 37) according to the application timings shown in the table entitled Weeds Controlled (C) or Suppressed (S). Use the higher rate for more difficult to control weeds such as downy brome. Treat after the majority of weeds have emerged. Best results are obtained when application is made to weeds that are actively growing.

#### Crop Specific Use Restriction:

- Do not use if cereal crop is underseeded with a legume.

#### Application in Fluid Fertilizer (for Winter Wheat Only)

OpenSky may be applied to winter wheat in spray solutions containing up to 50% liquid nitrogen fertilizer with actual nitrogen content not exceeding 30 lbs per acre. Temporary crop injury may result when liquid nitrogen fertilizer is used as the spray carrier. High application rates of liquid nitrogen fertilizer applied to plant foliage may cause leaf burn, yellowing or reduced growth of the crop. When liquid nitrogen fertilizer rates exceed 2 quarts of UAN/acre or other product equivalent rate, use a non-ionic surfactant at a maximum of 0.25% v/v.

Occasionally, slight yellowing or height reduction may be observed in the treated cereal crop. These transient symptoms disappear within 14 days with no reduction to yield. Do not apply to crops suffering from drought, water-logged soils, nutrient deficiency, or exposure to frost or other agronomic factors affecting plant growth. Do not use on wheat or triticale varieties that are sensitive to ALS herbicides.

An independent liquid ammonium nitrogen fertilizer application made within 7 days before or after an application of OpenSky may result in transient leaf burn or stunting. Do not make a liquid fertilizer application during this period unless the risk of crop response is acceptable.

**Tank Mixtures:** OpenSky may be applied in tank mix combination with labeled rates of other products registered for postemergence application in spring and winter wheat or triticale. See Tank Mixing Restrictions under Mixing Directions. It is the pesticide user's responsibility to ensure that all products in the listed mixtures are registered for the intended use. Users must follow the most restrictive directions for use and precautionary statements of each product in the tank mixture.

#### Crop Specific Use Restrictions:

- Preharvest Interval: Do not apply within 60 days of harvest.
- Do not apply more than 1.25 pints of OpenSky per acre per growing season.
- Do not allow livestock to graze the treated crop within 7 days following application.
- Do not cut the treated crop for hay within 28 days following application.
- Do not apply a product containing organophosphates for five days before or five days after an application of OpenSky.

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